

NAHASDA and for purposes of section 209.

§ 1000.144 Are Mutual Help homes developed under the 1937 Act subject to the useful life provisions of section 205(a)(2)?

No.

§ 1000.146 Are homebuyers required to remain low-income throughout the term of their participation in a housing program funded under NAHASDA?

No. The low-income eligibility requirement applies only at the time of purchase. However, families purchasing housing under a lease purchase agreement who are not low-income at the time of purchase are eligible under § 1000.110.

§ 1000.150 How may Indian tribes and TDHEs receive criminal conviction information on adult applicants or tenants?

(a) As required by section 208 of NAHASDA, the National Crime Information Center, police departments, and other law enforcement agencies shall provide criminal conviction information to Indian tribes and TDHEs upon request. Information regarding juveniles shall only be released to the extent such release is authorized by the law of the applicable state, Indian tribe or locality.

(b) For purposes of this section, the term “*tenants*” includes homebuyers who are purchasing a home pursuant to a lease purchase agreement.

§ 1000.152 How is the recipient to use criminal conviction information?

The recipient shall use the criminal conviction information described in § 1000.150 only for applicant screening, lease enforcement and eviction actions. The information may be disclosed only to any person who has a job related need for the information and who is an authorized officer, employee, or representative of the recipient or the owner of housing assisted under NAHASDA.

§ 1000.154 How is the recipient to keep criminal conviction information confidential?

(a) The recipient will keep all the criminal conviction record information it receives from the official law enforcement agencies listed in § 1000.150 in files separate from all other housing records.

(b) These criminal conviction records will be kept under lock and key and be under the custody and control of the recipient's housing executive director/lead official and/or his designee for such records.

(c) These criminal conviction records may only be accessed with the written permission of the Indian tribe's or TDHE's housing executive director/lead official and/or his designee and are only to be used for the purposes stated in section 208 of NAHASDA and these regulations.

§ 1000.156 Is there a per unit limit on the amount of IHBG funds that may be used for dwelling construction and dwelling equipment?

(a) Yes. The per unit amount of IHBG funds that may be used for dwelling construction and dwelling equipment cannot exceed the limit established by HUD except as allowed in the definition below. Other costs associated with developing a project, including all undertakings necessary for administration, planning, site acquisition, water and sewer, demolition, and financing may be eligible NAHASDA costs but are not subject to this limit.

(b) Dwelling construction and equipment (DC&E) costs include all construction costs of an individual dwelling within five feet of the foundation. Excluded from the DC&E are any administrative, planning, financing, site acquisition, site development more than five feet from the foundation, and utility development or connection costs. HUD will publish and update on a regular basis DC&E amounts for appropriate geographic areas.

(c) DC&E amounts will be based on a moderately designed house or multi-family structure and will be determined by averaging the current construction costs, as listed in not less

than two nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality. If a recipient determines that published DC&E amounts are not representative of construction costs in its area, it may request a re-evaluation of DC&E amounts and provide HUD with relevant information for this re-evaluation.

Subpart C—Indian Housing Plan (IHP)

§ 1000.201 How are funds made available under NAHASDA?

Every fiscal year HUD will make grants under the IHBG program to recipients who have submitted to HUD for that fiscal year an IHP in accordance with § 1000.220 to carry out affordable housing activities.

§ 1000.202 Who are eligible recipients?

Eligible recipients are Indian tribes, or TDHEs when authorized by one or more Indian tribes.

§ 1000.204 How does an Indian tribe designate itself as recipient of the grant?

- (a) By resolution of the Indian tribe; or
- (b) When such authority has been delegated by an Indian tribe's governing body to a tribal committee(s), by resolution or other written form used by such committee(s) to memorialize the decisions of that body, if applicable.

§ 1000.206 How is a TDHE designated?

- (a)(1) By resolution of the Indian tribe or Indian tribes to be served; or
- (2) When such authority has been delegated by an Indian tribe's governing body to a tribal committee(s), by resolution or other written form used by such committee(s) to memorialize the decisions of that body, if applicable.
- (b) In the absence of a designation by the Indian tribe, the default designation as provided in section 4(21) of NAHASDA shall apply.

§ 1000.208 What happens if an Indian tribe had two IHAs as of September 30, 1996?

Indian tribes which had established and were operating two IHAs as of Sep-

tember 30, 1996, under the 1937 Act shall be allowed to form and operate two TDHEs under NAHASDA. Nothing in this section shall affect the allocation of funds otherwise due to an Indian tribe under the formula.

§ 1000.210 What happens to existing 1937 Act units in those jurisdictions for which Indian tribes do not or cannot submit an IHP?

NAHASDA does not provide the statutory authority for HUD to grant NAHASDA grant funds to an Indian housing authority, Indian tribe or to a default TDHE which cannot obtain a tribal certification, if the requisite IHP is not submitted by an Indian tribe or is determined to be out of compliance by HUD. There may be circumstances where this may happen, and in those cases, other methods of tribal, Federal, or private market support may have to be sought to maintain and operate those 1937 Act units.

§ 1000.212 Is submission of an IHP required?

Yes. An Indian tribe or, with the consent of its Indian tribe(s), the TDHE, must submit an IHP to HUD to receive funding under NAHASDA, except as provided in section 101(b)(2) of NAHASDA. If a TDHE has been designated by more than one Indian tribe, the TDHE can submit a separate IHP for each Indian tribe or it may submit a single IHP based on the requirements of § 1000.220 with the approval of the Indian tribes.

§ 1000.214 What is the deadline for submission of an IHP?

IHPs must be initially sent by the recipient to the Area ONAP no later than July 1. Grant funds cannot be provided until the plan is submitted and determined to be in compliance with section 102 of NAHASDA and funds are available.

§ 1000.216 What happens if the recipient does not submit the IHP to the Area ONAP by July 1?

If the IHP is not initially sent by July 1, the recipient will not be eligible for IHBG funds for that fiscal year. Any funds not obligated because an